



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: AUGUST 01, 2022

IN THE MATTER OF:

Appeal Board No. 622710

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective October 9, 2021, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held telephone conference hearings at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed March 30, 2022 (), the Administrative Law Judge overruled the initial determination.

The employer appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

**FINDINGS OF FACT:** The claimant worked as a supervisor/plant manager for the employer's box factory for about seven years until October 8, 2021. The claimant's two sons as well as their friend also worked at the factory. The claimant, his sons and the friend all worked the first shift of the day which begins at about 5 a.m.; break time on the shift was at 10 a.m.

The claimant was unhappy with the abilities of the human resources (HR assistant) who filled many roles in the factory, including payroll duties which she had recently taken over. He believed that she was made far too many errors. He was also unhappy that while he worked full-time, she was a salaried employee who he believed worked only part-time hours. The claimant

wanted her fired and wanted his wife to take over the position. Although he was a manager, he felt that he was only a "glorified babysitter" because he did not have the ability to hire and fire employees. Only the owner had such ability.

In the morning of October 8, 2021, the HR assistant gave out the payroll checks. The claimant noticed that she had failed to pay him some overtime he had completed; this resulted in a shortage of about \$4. The claimant became angry and approached the HR assistant; in an angry tone, he told her of the shortage. He added that she needed to start doing her job better because she made too many mistakes. The HR assistant immediately went to correct the error and issue a new check to the claimant.

Sometime between 7 a.m. and 8 a.m., the claimant approached the owner, got in his face, and began screaming at him that the HR assistant should be fired because she is no good at her job; the claimant told the owner that his wife would do a better job in that position. The owner told the claimant the HR assistant would not be fired and walked away.

About 20 minutes later, the HR assistant provided the claimant with a corrected check. The claimant believed that the HR assistant threw the check at him, and he became even more upset. The claimant again approached the owner and began arguing with him that the HR assistant needed to be fired. The owner reiterated that he had no intention of firing the HR assistant and that the claimant should go and calm down for the day. At that point, claimant told the owner he was going to shut the plant down and said to his sons and the rest of the first shift crew, "come on boys, we're leaving". The claimant and the crew then left the factory. The owner did not fire the claimant. The owner also did not fire the other crew members prior to their walking out of work with the claimant. After the claimant left the factory, he called the second shift supervisor and asked her as a friend not to report to work; he did so because he wanted to force a strike. The claimant did not return to work for the employer although continuing work was available to him.

**OPINION:** The credible evidence establishes that the claimant voluntarily separated from his employment after he argued with the owner about the quality of another employee's work. The parties agree that the claimant's separation occurred after he argued with the owner about the HR assistant. We credit the employer's credible and consistent testimony that he did not fire the claimant or the rest of the first shift crew over the claimant's contentions to the

contrary. In doing so, we note that the claimant's son, who was present for the arguments between the claimant and the owner, testified that the owner told the claimant that he should leave for the day in order to calm down. We further note the claimant's concessions that he had intended to force a strike and that although the other members of the crew sought to return to their jobs, he did not. As evidence that the owner had fired him, the claimant contends that the owner also fired the rest of the crew since the employer had not let the other crew members return to work after their break. We find this contention to also be without merit. In so finding, we note that the son's testimony establishes that the arguments took place well prior to the scheduled morning break, that he and the rest of the crew left with the claimant and only returned to work to pick up their belongings, and that he was not advised until a few days later that he had been discharged for walking out of work for no reason. We further note that it is not reasonable to believe that the owner of a factory would fire an entire crew during their shift leaving the business without workers to complete the necessary work. Based on the foregoing, we conclude that the claimant voluntarily resigned from continuing work.

The claimant's own testimony indicates that he was not only unhappy with the work of the HR assistant but that he was also angry that he alone could not discharge her; and that it was these issues which precipitated the argument resulting in his separation. It is well-settled that inability to get along with coworkers does not constitute good cause to quit. Moreover, the record fails to establish that the argument, itself, was so egregious as to afford the claimant good cause to quit because of it. Accordingly, we conclude that the claimant voluntarily separated from his employment without good cause and is, therefore, disqualified from the receipt of benefits.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination, disqualifying the claimant from receiving benefits, effective October 9, 2021, on the basis that the claimant voluntarily separated from employment without good cause, is sustained.

The claimant is denied benefits with respect to the issues decided herein.

MICHAEL T. GREASON, MEMBER